

104TH CONGRESS
1ST SESSION

H. R. 951

To amend title 49, United States Code, to authorize the Secretary of Transportation to reduce under certain circumstances the percentage of voting interests of air carriers which are required to be owned or controlled by persons who are citizens of the United States.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 15, 1995

Mr. CLINGER introduced the following bill; which was referred to the
Committee on Transportation and Infrastructure

A BILL

To amend title 49, United States Code, to authorize the Secretary of Transportation to reduce under certain circumstances the percentage of voting interests of air carriers which are required to be owned or controlled by persons who are citizens of the United States.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. REDUCTION OF U.S. CITIZENSHIP VOTING IN-**
4 **TEREST OWNERSHIP REQUIREMENT.**

5 Subchapter I of chapter 417, of title 49, United
6 States Code, is amended by adding at the end the follow-
7 ing new section:

1 **“SEC. 41714. REDUCTION OF U.S. CITIZENSHIP VOTING IN-**
2 **TEREST OWNERSHIP REQUIREMENT.**

3 “(a) GENERAL RULE.—Notwithstanding the require-
4 ment of section 40102(15) that at least 75 percent of the
5 voting interests of an air carrier be owned or controlled
6 by persons who are citizens of the United States or of one
7 of its possessions, a person who is not a citizen of the
8 United States may purchase voting interests of a corpora-
9 tion or association which is, or owns or controls, an air
10 carrier without regard to whether or not such purchase
11 would result in the corporation or association failing to
12 meet such voting interest requirement of section
13 40102(15) if the Secretary of Transportation finds that—

14 “(1) after the purchase—

15 “(A) the president, chairman of the board
16 of directors, chief operating officer, and two-
17 thirds or more of the board of directors of the
18 corporation or association which is, or owns or
19 controls, the air carrier would be citizens of the
20 United States or one of its possessions; and

21 “(B) at least 51 percent of the voting in-
22 terests of the air carrier would be owned or
23 controlled by persons who are citizens of the
24 United States or one of its possessions; and

25 “(2) the purchase is in the public interest.

1 “(b) FACTORS TO CONSIDER FOR PUBLIC INTEREST
2 FINDING.—The Secretary, in making the finding required
3 by subsection (a)(2), shall consider the following:

4 “(1) The financial condition of the air carrier
5 and the importance of the purchase to the carrier’s
6 ability to survive and effectively compete.

7 “(2) The effect of the purchase on the employ-
8 ees of the air carrier.

9 “(3) The effect of the purchase on competition
10 in interstate, overseas, and foreign air transpor-
11 tation.

12 “(4) Whether the laws and regulations of the
13 foreign country of which the purchaser is a citizen
14 would permit a citizen of the United States to ac-
15 quire, under similar terms and conditions, the same
16 percentage of stock of a person who provides in such
17 foreign country transportation by aircraft of persons
18 or property as a common carrier as the percentage
19 of stock which the person making the purchase
20 would have in the air carrier after the purchase.

21 “(5) The extent to which the purchaser is
22 owned, controlled, or subsidized by a government of
23 a foreign country.

24 “(6) The extent to which a person who is not
25 a citizen of the United States or one of its posses-

1 sions would, after the purchase, have the power to
2 exercise control over the air carrier.

3 “(7) The extent to which the foreign country of
4 which the purchaser is a citizen permits air carriers
5 to have access to its aviation markets equivalent to
6 the access that the foreign citizen would have to the
7 aviation markets of the United States after the pur-
8 chase.

9 “(c) APPLICATION.—

10 “(1) SUBMISSION.—A person interested in
11 making a purchase with respect to which subsection
12 (a) applies must submit an application with respect
13 to such purchase to the Secretary. The application
14 must be in such form and contain such information
15 as the Secretary may, by regulation, require.

16 “(2) APPROVAL OR DISAPPROVAL.—Within 90
17 days after an application meeting the requirements
18 of paragraph (1) and any regulations issued there-
19 under is submitted to the Secretary, the Secretary
20 shall approve the application, approve the applica-
21 tion subject to such conditions or modifications as
22 the Secretary determines appropriate to carry out
23 the objectives of this section, or disapprove the ap-
24 plication.

25 “(3) PRESIDENTIAL REVIEW.—

1 “(A) PRESENTATION.—The approval, with
2 or without conditions or modifications, of any
3 application under this section shall be presented
4 to the President for review.

5 “(B) DISAPPROVAL; CONDITIONS.—The
6 President shall have the right to disapprove or
7 impose conditions on the application solely on
8 the basis of national defense considerations in-
9 cluding the effect of the purchase on the Civil
10 Reserve Air Fleet program. Any such dis-
11 approval or conditions shall be issued in a pub-
12 lic document, setting forth the reasons for the
13 disapproval or conditions to the extent national
14 security permits, within 30 days after submis-
15 sion of the Secretary’s action to the President.

16 “(C) EFFECT OF DISAPPROVAL.—Any ac-
17 tion of the Secretary disapproved by the Presi-
18 dent under this paragraph shall be null and
19 void.

20 “(D) EFFECT OF EXPIRATION OF TIME
21 LIMIT; JUDICIAL REVIEW.—Any action of the
22 Secretary not disapproved within the 30-day pe-
23 riod referred to in subparagraph (B) shall take
24 effect as an action of the Secretary, not the
25 President, and as such shall be subject to judi-

1 cial review as provided in section 1006 of this
2 Act.”.

3 **SEC. 2. CONFORMING AMENDMENT.**

4 The analyses for chapter 417 of title 49, United
5 States Code, is amended by inserting after the item relat-
6 ing to section 41713 the following:

“41714. Reduction of U.S. citizenship voting interest ownership requirement.”.

